



196-04 HOLLIS AVENUE  
SAINT ALBANS, NEW YORK 11412  
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October 27, 2020

**VIA ECF & E-MAIL**

Honorable James L. Cott  
United States Courthouse  
500 Pearl Street  
New York, New York 10007

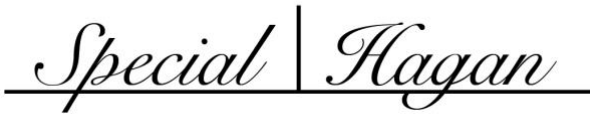
RE: Kaye v. NYC Health & Hospitals Corp. et. al.  
Index No.: 18-cv-12137(JPC)(JLC)

Dear Honorable Judge Cott:

I am writing to express my concern about Defense Counsel's compliance with discovery. Yesterday I wrote the Court in an effort to compel the production of non-party deponent, Catherine G. Patsos, Esq. for her deposition this morning. (ECF. 100) Defense Counsel was duly served Subpoenas pursuant to Fed. R. Civ. P. 45 and Notices of Deposition on October 7, 2020. At no time before yesterday afternoon did Defendants object to the subpoenas or state their intent not to appear at this morning's deposition. Despite their rejection of the subpoenas and deposition notices, Plaintiff retained court reporting services and proceeded in anticipation of Chief Corporate Compliance Officer Patsos's deposition. Although I proceeded in good faith, Counsel failed to appear.

In closing, I would like to respectfully make a record. To date, Defense Counsel has done the following in response to discovery demands in this case:

- When Plaintiff served Defendants with interrogatories, requests for admissions and requests for production, Defense Counsel waited over 5 months to respond. At the parties' initial scheduling conference in front of Your Honor, she then informed the Court that she rejected the discovery demands;
- Defense Counsel rejected collaborating on a proposed ESI protocol for Your Honor to consider. Plaintiff drafted a document that sought Counsel's input and again Defense Counsel told the Court that they did not have to collaborate on a protocol;
- Defense Counsel has failed to produce responsive discovery.(i.e. demographic data Affirmative Action Plans and Reports; investigative notes, recordings and hearing transcripts relied upon to write investigations that pertained to Plaintiff's performance and Defendants' alleged business decisions); and



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- Today, Defendants failed to produce Ms. Patsos, Chief Corporate Compliance Officer for her deposition. Ms. Patsos wrote a memo that warned Dr. Kaye about recording two 730 Examinations. Dr. Kaye alleges that the report was part of retaliatory managerial campaign to constructively discharge her from H + H. Dr. Kaye also reported malfeasance to Ms. Patsos, who was Chief Corporate Compliance Officer was tasked with the responsibility to investigate Whistleblower and retaliation complaints.
- Although, Ms. Patsos is a non-party deponent, her testimony is integral to Dr. Kaye's claim. Further, despite specific discovery demands for associated investigatory reports, recordings and hearing transcripts, to date, Defendants have failed to produce: the three day transcript for the 730 Hearing convened in front of Judge Michael Gross; the first 730 Examination conducted by Dr. Kaye; and or the recordings that Dr. Kaye allegedly made when she conducted the examination.

Respectfully submitted,

/s/

Special Hagan, Esq.  
Attorney for Plaintiff  
Melissa Kaye

c: Donna Canfield, Esq.  
Counsel for Defendants